



10 FEB 2003

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In re Application of METCALF et al :
U.S. Application No.: 09/674,368 :
Int. Application No.: PCT/US99/09486 :
Int. Filing Date: 29 April 1999 :
Priority Date: 29 April 1998 :
Attorney Docket No.: 33377-00 :
For: VACCINES CONTAINING RECOMBINANT :
PILIN AGAINST NEISSERIA :
GONORRHOEAE OR NEISSERIA :
MENINGITIDIS :

DECISION

This is in response to applicant's "Response to Notice to Comply and Statement Under 37 C.F.R. §§1.821-1.825" filed 23 August 2002, including purported paper and computer readable copies of a substitute sequence listing. The response requests entry of the purported substitute sequence listing.

BACKGROUND

On 29 April 1999, applicant filed international application PCT/US99/09486, which claimed priority of an earlier United States application filed 29 April 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 12 November 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 29 October 2000.

On 28 October 2000, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and a sequence listing in computer readable form (CRF).

On 11 June 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) along with a Notification to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/920) and a Raw Sequence Listing Error Report, which indicated that a substitute CRF must be filed.

On 11 December 2001, applicant filed a response to the Notification of Missing Requirements including a substitute CRF.

On 18 March 2002, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) along with a Raw Sequence Listing Error Report, which indicated that the substitute CRF filed 11 December 2001 was defective and that a substitute CRF must be filed. The Notification of Defective Response set a one month, non-extendable time limit for response.

The present national stage application became abandoned at midnight on 18 April 2002 for failure to timely respond to the Notification of Defective Response.

On 13 May 2002, applicant a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

On 15 July 2002, this Office mailed a decision dismissing the 13 May 2002 petition.

On 23 August 2002, applicant filed the present response.

DISCUSSION

The Notification of Defective Response mailed 18 March 2002 set a one month, non-extendable time limit for response. The present response was filed on 23 August 2002, which is after the expiration of the response period.

CONCLUSION

For the reasons above, the request for entry of the substitute sequence listing is **DISMISSED** without prejudice.

The application is being forwarded to the DO/EO/US for further processing, including preparation and mailing of a Notification of Abandonment (Form PCT/DO/EO/909) which should state that the present application is abandoned as to the United States for failure to timely respond to the Notification of Defective Response mailed 18 March 2002.

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.



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